

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7274

Evan Ginsberg v. Central Vermont Public)
Service Corporation)

Order entered: 3/30/2007

I. BACKGROUND

On September 10, 2004, Mr. Evan Ginsberg petitioned the Vermont Public Service Board ("Board") for a hearing to resolve a billing dispute with Central Vermont Public Service Corporation ("Central Vermont" or "Company"). Mr. Ginsberg had been unsuccessful in resolving the dispute through the Division of Consumer Affairs and Public Information ("CAPI") of the Vermont Department of Public Service ("Department").

On September 17, 2004, the Board requested that CAPI review Mr. Ginsberg's complaint, and forward the results of it's investigation to the Board.¹

On January 6, 2007, Mr. Ginsberg sent an e-mail to the Board informing it that no action had been taken since September of 2004, and that he continues to be billed for the amounts he disputes.

The Board contacted CAPI on January 8, 2007. On January 17, 2007, CAPI replied that Mr. Ginsberg's complaint had not been investigated on its own merits. Instead, CAPI apparently believed the matter would be resolved in the course of another proceeding.²

1. Memorandum of September 17, 2004, from Judith C. Whitney, Deputy Clerk of the Board, to Deena Frankel, Director of Consumer Affairs, Department of Public Service.

2. The proceeding CAPI referred to was *Investigation into Central Vermont Public Service Corporation's Class Cost of Service Study and Rate Design Proposals*, Docket 7095, opened by Order of September 13, 2005.

On March 12, 2007, pursuant to 30 V.S.A. § 8, the Vermont Public Service Board ("Board") assigned me as Hearing Officer for final resolution of this matter.³

By memorandum on March 12, 2007, I informed the parties that unless a party made a request to present additional facts or argument on or before March 21, 2007, I was prepared to rule on the dispute based on the evidence of record at that time. By letter filed March 19, 2007, Central Vermont agreed with this method, but asked also that I take administrative notice of one additional document, Central Vermont's Residential Service Tariff First Revised Sheet 6, as was in effect at the time of the complaint. As I rely on a definition in that document, as well as the rates in Central Vermont's current tariffs and those in effect during the pendency of this dispute, I hereby take administrative notice of Central Vermont's Residential and General Service Tariffs as have been in effect since 2002, as well as Residential Service Tariff First Revised Sheet 6. Pursuant to 3 V.S.A. § 810(4), if any party contests the notice of these materials, they may do so within ten days of this Order.

II. FINDINGS

Pursuant to 30 V.S.A. § 8, and based on the record and evidence before me, I present the following findings of fact and conclusions of law.

1. In the summer of 2004, Mr. Ginsberg built a free-standing garage at his home in Winhall, Vermont. Petition, letter from Mr. Ginsberg to Susan Hudson, Clerk of the Board, dated September 2, 2004 (filed on September 10, 2004) (Exhibit 1).
2. After consultation with his contractor and electrician, Mr. Ginsberg contacted Central Vermont to have service installed to the garage, individually and separately-metered from the house. *Id.*
3. Central Vermont informed Mr. Ginsberg that the garage would be charged the Company's General Service Rate. *Id.*

3. 30 V.S.A. § 8(f) allows a final determination to be made by a Hearing Officer where the amount in controversy does not exceed \$2,000. Upon petition of a party within 30 days of the Hearing Officer's decision and Order, the Board may determine that the Hearing Officer's decision should be treated as a Proposal for Decision, as provided for in 30 V.S.A. § 8(c).

4. Central Vermont's Residential Service Rate (Company Designation 1) is applicable for single phase electric service for domestic purposes in private residences, individual apartments and farms. Central Vermont's Residential Service Rate Tariff, Fifty-fourth Revised Sheet 21, effective on bills rendered on or after February 1, 2002. (Exh. 2).

5. Central Vermont defines a General Service Customer as "any customer of electric service not meeting the applicable provisions of one of the Company's rates designated for specific types of service." Central Vermont's Rules and Regulations for Electric Service First Revised Sheet 6, effective October 1, 1974. (Exh. 3).

6. Central Vermont installed service and a separate meter to the garage on August 10, 2004. Exh. 1, Attachment 1.

7. Mr. Ginsberg has not used the garage for any commercial purposes. Instead, the garage's sole purpose is vehicle, bicycle and household item storage and protection. Exh. 1.

III. DISCUSSION

Central Vermont's Residential Service Tariff is applicable for "domestic purposes in private residences, individual apartments and farms."⁴ "Domestic" is defined as "of or pertaining to the home, the household, household affairs, or the family."⁵ Mr. Ginsberg has shown that the purpose of his garage pertains exclusively to his home, household, or household affairs. No party presented any information challenging this showing. Accordingly, I conclude the garage should have been metered and billed under the terms, conditions and rates of Central Vermont's Residential Service Tariff.

Central Vermont argues that the definition of a "residential service customer" does not include separately-metered buildings that are not residences, apartments or farm buildings. I am not persuaded by this argument, principally because the tariff makes no explicit exemption for *separately-metered* buildings within a private residence which would render them ineligible for service under the residential tariff. Instead, I interpret the tariff as differentiating "single" private residences from multi-family residences in the same way it distinguishes individual apartments

4. Exh. 3.

5. Random House College Dictionary Revised Edition, 1975.

from an entire apartment building, not in the way Central Vermont seeks to separate structures within a single private residence.⁶ Accordingly, I rely on the inclusive, *use-based* language of the residential tariff, under which I find that a garage meets the applicability criteria of domestic purposes in a private residence.

IV. CONCLUSION

I direct Central Vermont to calculate the difference between the Residential and General Service rates, both for the service charge and energy consumed at the garage, since the service began in August, 2004, until the present, and issue a bill credit reflective of that amount, no later than the first billing cycle beginning 45 days after issuance of this Order. Moreover, Central Vermont shall provide service to the garage under its Residential Service tariff on a going-forward basis, unless electric usage or other circumstances indicate that the garage is being used for purposes other than domestic.

I further direct that Mr. Ginsberg notify Central Vermont and the Board if his usage of the garage becomes anything other than residential.

V. ORDER

For the above-stated reasons, I HEREBY ORDER:

1. Central Vermont Public Service Corporation shall calculate the difference between the bills paid by Mr. Evan Ginsberg Since August 10, 2004, on his account at his garage in Winhall, Vermont, under Central Vermont's General Services Tariff, and what would have been paid if service had been provided under Central Vermont's Residential Service Tariff. Central Vermont shall credit Mr. Ginsberg's garage account by the resulting amount, no later than the billing cycle that begins on or before 45 days from the issuance of this Order.

2. Central Vermont shall provide service to Mr. Ginsberg's garage under its Residential Service Tariff.

6. I note that Central Vermont's Residential Service Rate Tariff does not include the term "single private residences" where it designates the service for which the rate is applicable. Exh. 2.

3. Mr. Ginsberg shall notify Central Vermont and the Board if at any time his garage is used for anything other than domestic household purposes.

Pursuant to 30 V.S.A. § 8(f), parties have thirty days to petition the Board to treat this determination as a proposal for decision in accordance with 30 V.S.A. § 8(c). In addition, the Board may choose to treat this determination as a proposal for decision, on its own motion, within the same thirty-day time limit. If no such requests are timely made, or the requests are denied by the Board, this determination shall become the final decision and order of the Board, and this docket shall be closed.

SO ORDERED.

Dated at Montpelier, Vermont, this 30th day of March, 2007.

s/John Randall Pratt

John Randall Pratt
Hearing Officer

OFFICE OF THE CLERK

FILED: March 30, 2007

ATTEST: s/Judith C. Whitney

Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)